



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0034; FRL-9969-59-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Minnesota; Regional Haze Progress Report**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a regional haze progress report under the Clean Air Act as a revision to the Minnesota State Implementation Plan (SIP).

Minnesota has satisfied the progress report requirements of the Regional Haze Rule. The progress report examines Minnesota's progress in implementing its regional haze plan during the first half of the first implementation period. Minnesota has met the requirements for submitting a periodic report describing its progress toward reasonable progress goals (RPGs) established for regional haze. Minnesota also provided a determination of the adequacy of its plan in addressing regional haze with its negative declaration submitted with the progress report.

Because the state addresses the applicable requirements, EPA is approving the progress report and adequacy determination for the

first implementation period for regional haze as a revision to the Minnesota SIP.

DATES: This direct final rule will be effective **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0034 at <https://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Requirements for Regional Haze Progress Report SIPs and Adequacy Determinations
- III. What is EPA's Analysis?
- IV. What Action is EPA Taking?

V. Statutory and Executive Order Reviews.

I. Background

States are required to submit a progress report every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area¹ (Class I area). Specifically, the progress report evaluates progress toward the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP under 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP.

Minnesota submitted its regional haze plan to EPA on December 30, 2009, with a supplement submitted on May 8, 2012. Correspondingly, Minnesota submitted its five-year progress report and its determination of adequacy on December 30, 2014.

¹ Under the Clean Air Act (CAA), a Class I Federal area is one in which visibility is protected more stringently than under the national ambient air quality standards. Class I Federal areas include national parks, wilderness areas, monuments, and other areas of special national and cultural significance.

EPA is approving Minnesota's progress report on the basis that it satisfies the applicable requirements of 40 CFR 51.308.

Two Class I areas are located in Minnesota, the Boundary Waters Canoe Wilderness Area (Boundary Waters) and the Voyageurs National Park (Voyageurs). Further, Minnesota emissions contribute to visibility impairment at a Class I area located out of state, the Isle Royale National Park (Isle Royale) in Michigan.

II. Requirements for Regional Haze Progress Report SIPs and Adequacy Determinations

States must periodically submit a regional haze progress report that addresses the elements found in 40 CFR 51.308(g). States are required by 40 CFR 51.308(h) to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions listed in the rule based on information in the progress report.

III. What is EPA's Analysis?

A. Regional Haze Progress Report SIP

The following sections discuss the information provided in Minnesota's progress report. Each section describes Minnesota's progress report SIP submission and provides EPA's analysis and

proposed determination as to whether the submission meets the applicable requirements of 40 CFR 51.308.

1. Status of Implementation of All Measures Included in the Regional Haze SIP

In general, the Regional Haze Rule features two strategies for reducing visibility-impairing pollutants: implementing best available retrofit technology (BART) and the long-term strategy (LTS). In Minnesota, BART applies to electric generating units (EGUs) and taconite facilities.

a. BART for EGUs

The Minnesota progress report described the implementation of regional haze controls at EGUs. Minnesota's 2009 Regional Haze SIP included source-specific BART determinations for subject EGUs. Minnesota had intended to rely on the Clean Air Interstate Rule (CAIR) EGU emissions cap and trade program, finalized on May 12, 2005 (70 FR 25162), which had been determined by EPA as "better than BART." However, CAIR was remanded (without vacatur) by the Court of Appeals for the District of Columbia (D.C.) Circuit in December 2008, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). Therefore, Minnesota's 2009 Regional Haze SIP relied on the source-specific BART determinations performed by the state.

EPA finalized the Cross-State Air Pollution Rule (CSAPR), effective October 7, 2011 (76 FR 48208). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11-1302 (December 30, 2011).

In December 2011, EPA proposed a rule to approve CSAPR as an alternative to determining source-by-source specific BART for sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions from power plants. 76 FR 82219 (December 30, 2011). EPA finalized the rule on June 7, 2012. 77 FR 33642. Minnesota modified its EGU BART strategy, replacing source-specific BART determinations at subject facilities with participation in CSAPR. On January 5, 2012, Minnesota requested to use CSAPR participation to satisfy BART for its EGUs, which EPA approved on June 12, 2012 (77 FR 34801). EPA considers CSAPR to satisfy the BART requirements for Minnesota EGUs for SO₂ and NO_x.

On August 21, 2012, the Court of Appeals for the D.C. Circuit vacated CSAPR, keeping CAIR in effect while EPA

developed a replacement rule. EPA appealed the ruling to the U.S. Supreme Court, which upheld CSAPR in a final decision issued on April 29, 2014.² On October 23, 2014, the Court of Appeals granted EPA's motion to lift the stay of CSAPR and to toll CSAPR's compliance deadlines by three years. On November 21, 2014, EPA issued a rule that aligns the dates in the CSAPR rule text with the revised court-ordered schedule, including the implementation of Phase I in 2015. 79 FR 71663.

Minnesota used CSAPR to satisfy BART for its subject EGUs. The EGUs in Minnesota, including both units subject to BART and units not subject to BART, have reduced SO₂ and NO_x emissions even with the delay in implementing CSAPR. In the progress report, Minnesota shows that 2013 state-wide SO₂ emissions from EGUs were 24,366 tons. That is below the CSAPR budget of 41,981 tons and a 76 percent decrease from 2002 emissions. Minnesota also shows that 2013 state-wide NO_x emissions were 24,855 tons from EGUs. That is below the 29,572 tons CSAPR budget and a 71 percent decrease from 2002 emissions.

b. BART for Taconite Facilities

The Minnesota progress report described the implementation of regional haze controls at taconite facilities. Minnesota's

² *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014).

2009 Regional Haze SIP included source-specific BART determinations for subject taconite facilities. On February 6, 2013, EPA finalized a Federal Implementation Plan rule (FIP) with BART determinations and enforceable limits for Minnesota's subject taconite facilities for control of SO₂ and NO_x emissions. 78 FR 8706.

Compliance deadlines in the FIP ranged from a few months (for most SO₂ limits) to five years from the SIP's effective date of March 8, 2013. The affected facilities, however, as well as the state of Michigan, filed petitions for reconsideration and review of the FIP rule. The Eighth Circuit Court of Appeals granted a stay of the rule on June 14, 2013. As of the date of Minnesota's progress report, December 30, 2014, the stay remained in effect while the parties sought to resolve the litigation.³ Subsequently, the stay was lifted on November 15,

³ EPA subsequently reached a settlement agreement with Cliffs Natural Resources, Arcelor Mittal, and the state of Michigan regarding issues raised in their petitions for review and reconsideration. Notice of the settlement was published in the Federal Register on January 30, 2015 (80 FR 5111), and the settlement agreement was fully executed on April 9, 2015.

EPA granted partial reconsideration of the 2013 Taconite FIP based on new information raised in the petitions for reconsideration. EPA finalized a revision to the taconite BART FIP on April 12, 2016 (81 FR 21672). EPA revised the SO₂ and NO_x emission limitations for some of the taconite facilities based on new information that was not available when the FIP was originally promulgated.

However, Cliffs, Arcelor Mittal, and US Steel filed petitions for reconsideration and review against the April 12, 2016 revised FIP on or about June 13, 2016. This matter is also pending before the Eighth Circuit Court of Appeals.

2016.

The FIP provided BART limits for taconite furnaces. The delays in implementing the taconite FIP extended beyond the period Minnesota assessed in its progress report. In light of the stay of the FIP during the reporting period, Minnesota did not include any expected visibility improvements that will arise from the implementation of the FIP in its progress report analysis. Minnesota will evaluate visibility benefits from the taconite FIP in future regional haze plans and progress reports.

c. Long Term Strategy

In its progress report, Minnesota described its Northeast Minnesota Plan, which is part of the LTS in its regional haze plan. The Northeast Minnesota Plan applies to sources in a six-county (Carlton, Cook, Itasca, Koochiching, Lake, and Saint Louis counties) area in northeastern Minnesota that emit at least 100 tons per year of either NO_x, SO₂, or both. The Northeast Minnesota Plan sets two targets from the base case for reductions in combined NO_x and SO₂ emissions.

d. "On-the-books" Modeled Controls

In its progress report, Minnesota noted the additional emission reductions expected from several Federal programs.

Minnesota considered the emission reductions from the Tier 2 Gasoline, Heavy-duty Highway Diesel, Non-road Diesel, and a variety of Maximum Achievable Control Technology programs in its regional haze plan. Minnesota did not rely on additional emissions controls from other states in its regional haze strategy. Additional emission reductions from the evaluated programs and from other states will not delay visibility improvement and may accelerate the improvement.

EPA concludes that Minnesota has adequately addressed the status of control measures in its regional haze SIP. Minnesota describes the implementation status of measures from its regional haze SIP including the status of control measures to meet BART, reasonable progress requirements, and the status of measures from on-the-book controls.

2. Summary of Emission Reductions Achieved in Minnesota Through Implementation of Measures

Minnesota provided its EGUs emissions of SO₂ and NO_x for 2002, 2009, and 2013, along with its CSAPR budgets. As discussed in III. A. 1. a. of this rule, emissions of the relevant pollutants have sharply declined from 2002 to 2013, and are all below the CSAPR budgets.

EPA expects further SO₂ and NO_x emission reductions from EGUs and the taconite facilities as CSAPR and the taconite FIP are implemented. Minnesota should account for these future emission reductions in its plan for the 2018-2028 implementation period. Minnesota will reassess its RPGs and the adequacy of its regional haze SIP when preparing its second regional haze SIP to cover the 2018-2028 implementation period. That assessment will include its reliance upon CSAPR for emission reductions from EGUs, implementation of controls on its taconite facilities, and any other applicable emission controls.

Table 1: Northeast Minnesota Plan

	Target (tons NO _x and SO ₂)	Emissions (tons NO _x and SO ₂)
2002 (Base)	95,826	95,826
2012	76,661 (20 percent reduction)	52,691
2018	67,078 (30 percent reduction)	66,982 ¹

¹ projection of 2018 combined emissions that adds permitted new sources, modifications, and potential new sources to the existing area sources.

The Northeast Minnesota Plan sets a 20 percent reduction target for 2012 and a 30 percent reduction target for 2018 of combined NO_x and SO₂ emissions from the 2002 base. Minnesota reported that the 2012 combined emissions from the Northeast

Minnesota Plan sources meet the 2012 goal. Thus, Minnesota has made adequate progress to date in achieving emission reductions.

Although the progress report is an evaluation of the progress achieved, there are some new sources permitted in the Northeast Minnesota Plan area. Minnesota made a projection of 2018 combined emissions that adds permitted new sources, modifications, and potential new sources to the existing area sources that is less than the 2018 Northeast Minnesota Plan goal.

EPA finds that the summary of emission reductions achieved from control strategy implementation meets the applicable requirements.

3. Assessment of Visibility Conditions and Changes for Each Mandatory Class I Federal Area in the State

Table 2: Visibility Progress at Class I Areas

Area		2002 (dv)	2013 (dv)	2018 (dv)
Boundary Waters	Worst	19.9	18.9	18.6
	Best	6.4	4.8	6.4
Voyageurs	Worst	19.5	18.2	18.9
	Best	7.1	5.3	7.1

Minnesota reported the 2013 visibility conditions for the 20 percent most impaired days (worst) and the 20 percent least impaired days (best) at Boundary Waters and Voyageurs. Those

values indicate progress from the 2002 baseline toward the 2018 RPGs.

EPA finds that Minnesota properly reported the current visibility conditions for the most impaired and least impaired days, the difference between current conditions and baseline conditions for the most impaired and least impaired days, and the change in visibility for the most impaired and least impaired days over the past five years. Minnesota's visibility progress is on track as improvement has been shown for the 20 percent least impaired days and is on track for the 20 percent most impaired days at both Class I Federal areas, Boundary Waters and Voyageurs.

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

Minnesota provided its 2002 base emissions and projected 2018 emissions in its regional haze plan submitted in 2009. The progress report gives 2011 annual emissions for SO₂, NO_x, ammonia (NH₃), and volatile organic compounds (VOC). These emissions can be compared to the 2002 base and 2018 projected emissions to evaluate progress.

Table 3: Emissions Progress

	SO ₂ (tons)	NO _x (tons)	NH ₃ (tons)	VOC (tons)
2002 Emissions	163,000	487,000	185,000	361,000

2011 Emissions	62,100	299,000	197,000	273,000
2018 Goal	108,000	288,000	253,000	279,000

Minnesota reports 2011 total SO₂ emissions of 62,100 tons, lower than the 2018 goal of 108,000 tons. Minnesota noted that SO₂ emissions have been steadily declining. Point sources comprise most of the SO₂ emissions, and several projects at coal-burning EGUs have driven the decline in SO₂ emissions.

Minnesota NO_x emissions have declined to 299,000 tons in 2011, nearing the 2018 goal of 288,000. For NO_x emissions, mobile sources are the main sector, and, as such, implementation of mobile source programs is expected to continue to decrease NO_x emissions in Minnesota. Potential emission reductions from EGUs and taconite facilities, once implemented, will provide some further assistance. Minnesota appears to be on track to meet its 2018 RPG for NO_x emissions given the reductions already achieved and further reductions expected because of the controls being implemented.

Minnesota projected its NH₃ emissions to increase 37 percent from 2002 to 2018, while by 2011 NH₃ emissions increased by 6.5 percent. Minnesota noted in its report that so far NH₃ emissions are increasing at a lower rate than predicted, but there still is some uncertainty regarding the emissions growth rate. Non-

point source, agricultural livestock manure management in particular, are the main sector for NH_3 emissions in Minnesota.

Minnesota projects VOC emissions to decrease 23 percent from 2002 to 279,000 tons in 2018. Minnesota reports 273,000 tons of VOC emissions in 2011. Emissions are gradually decreasing from implementation of a variety of programs. The state's anthropogenic VOC emissions are mainly from mobile and non-point sources.

Minnesota noted that direct fine particulate matter ($\text{PM}_{2.5}$) emissions have a minimal impact on visibility in Boundary Waters and Voyageurs. EPA examined the $\text{PM}_{2.5}$ emissions inventories and found a downward trend in emissions.

Minnesota appears to be on-track for reaching the 2018 emission projections in its regional haze plan. EPA finds that Minnesota's analysis tracking emissions progress for the current five-year period has satisfied the applicable requirements.

5. Assessment of Any Significant Changes in Anthropogenic Emissions

Minnesota provided an assessment of its SO_2 , NO_x , and NH_3 emissions changes and of the five contributing states (Illinois, Iowa, Missouri, North Dakota, and Wisconsin).

Minnesota reported 2011 emissions, which show a 61 percent SO₂ reduction from the 2002 base year, a 38 percent NO_x reduction, and a 6.5 percent increase in NH₃ emissions.

Iowa emissions (as indicated in its progress report) show a 37,400 ton SO₂ reduction from 2002 to 2008, along with a 68,100 ton NO_x reduction. Minnesota reviewed the public comment draft of the Missouri progress report. Missouri reported a 147,000 ton reduction in SO₂ emissions and a 53,200 ton reduction in NO_x emissions from 2005 to 2011. North Dakota provided emission information that shows a 67,000 ton, or 38 percent, SO₂ reduction and a 51,000 ton or 22 percent NO_x reduction from 2002 to 2011. Illinois and Wisconsin had not compiled emission data in time for Minnesota to evaluate for the report.

Minnesota also included emissions data from EPA's Clean Air Markets Division that show reductions in both SO₂ and NO_x emissions for each of the six states from 2005 to 2013. Collectively for the six states, SO₂ emissions declined 645,000 tons or 57 percent decrease, and there was a 293,000 ton or 53 percent decrease in NO_x emissions.

EPA finds that Minnesota properly assessed available information for any significant changes in anthropogenic emissions over the past five years to determine whether these

changes have impeded progress in improving visibility. The five contributing states are in various stages in assessing emissions for progress reports making Minnesota's assessment of contributing states' emissions inconsistent state to state. The visibility data available to Minnesota indicates that visibility improvement is on track. Supplementing the data from other states, EPA's Clean Air Markets Division data show that significant, wide-spread SO₂ and NO_x emission declines have already occurred. Thus, there is no evidence that progress in Minnesota is being impeded by emissions from other states.

6. Assessment of Whether the SIP Elements and Strategies Are Sufficient to Meet RPGs

Minnesota has implemented, or expects to implement by 2018, all controls from its approved regional haze plan. The state noted in the progress report that its emissions are on track for the 2018 goals, including reductions that are ahead of pace for the key visibility impairing pollutants, SO₂ and NO_x. Minnesota expects that the implementation of CSAPR and other Federal programs will address the reasonable progress obligations of the contributing states.

Minnesota emissions contribute to visibility impairment at Isle Royale. Emission reductions from Minnesota sources that

help visibility improvement at Boundary Waters and Voyageurs also support visibility improvement at Isle Royale. Minnesota has achieved greater SO₂ emission reductions than predicted in both its own and Michigan's regional haze plans.

EPA finds that Minnesota has provided an assessment of the current strategy to determine if it is sufficient to meet reasonable progress goals at all Class I Federal areas impacted by Minnesota emissions. The available information indicates that Minnesota is implementing its controls. The visibility progress at both Boundary Waters and Voyageurs is on track and thus suggests Minnesota's current strategy is sufficient to meet its reasonable progress goals.

7. Visibility Monitoring Strategy Review

Minnesota states in its progress report that Interagency Monitoring of Protected Visual Environments (IMPROVE) sites operate at the Class I Federal areas, Boundary Waters and Voyageurs, which are in northeastern Minnesota. There are also two IMPROVE protocol sites in southern Minnesota operating near Blue Mounds State Park and Great River Bluffs State Park. Minnesota will continue to operate the IMPROVE network monitors based on Federal funding. If future reductions to the IMPROVE network occur, the state has a contingency plan to use the PM_{2.5}

monitoring network. In addition, Minnesota commits to meeting the reporting requirements of 40 CFR 51.308(d)(4)(iv) for its Class I Federal areas.

EPA finds that Minnesota has adequately reviewed its visibility monitoring strategy, and concurs that it appears sufficient. No modifications to the monitoring strategy are needed at this time.

B. Determination of the Adequacy of Existing Implementation Plan

The determination of adequacy for the regional haze plan is required to be submitted at the same time as the progress report. The rule at 40 CFR 51.308(h) requires the state to select from four actions based on the state's evaluation of its regional haze plan.

Minnesota determined that its regional haze plan, including the 2012 supplement as approved into the Minnesota SIP, is adequate to meet the Regional Haze Rule requirements and expects to achieve the RPGs at Boundary Waters, Voyageurs, and Isle Royale. Thus, Minnesota submitted a negative declaration that further substantive revision of its regional haze plan is not needed at this time.

EPA finds that the current Minnesota regional haze plan is adequate to achieve its established goals. The reported

information indicates that Minnesota is on track to meet its visibility improvement and emission reduction goals.

C. Public Participation and Federal Land Manager Consultation

Minnesota published a public notice in the July 28, 2014, *State Register*. Minnesota offered a public meeting upon request. No one requested a public meeting. The state provided a public comment period of July 28, 2014, to August 27 2014, and received eight comment letters on its action. The comment letters, along with Minnesota's responses, are included in the progress report in Appendix F.

Minnesota consulted with Federal Land Managers (FLMs) on June 10, 2014. It provided a draft of the progress report to FLMs on June 20, 2014. The FLM comments, along with Minnesota's responses, are included in the progress report in Appendix F. Minnesota made revisions to the progress report based on FLM comments.

EPA finds that Minnesota has addressed the applicable public participation requirements in 40 CFR 51.308(i).

IV. What Action is EPA Taking?

EPA is approving the regional haze progress report that Minnesota submitted on December 30, 2014, as a revision to the Minnesota SIP. EPA finds that Minnesota has satisfied the

progress report requirements of 40 CFR 51.308(g). EPA also finds that Minnesota has met the requirements of 40 CFR 51.308(h) for a determination of the adequacy of its regional haze plan with its negative declaration.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. Relevant public comments will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that

provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after date of publication in the Federal Register]**.

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Particulate matter, Reporting and
recordkeeping requirements, Sulfur oxides, Volatile organic
compounds.

Dated: September 28, 2017.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (e) is amended by adding an entry for “Regional Haze Progress Report” immediately following the entry “Regional Haze Plan” to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(e) * * *

EPA--APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
* * * * *				
Regional Haze Progress Report	statewide	12/30/2014	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				

* * * * *

[FR Doc. 2017-22505 Filed: 10/17/2017 8:45 am; Publication Date: 10/18/2017]